

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:18-cv-910

THERESA SCHMITZ,)	
)	
Plaintiff,)	
)	
v.)	NOTICE OF REMOVAL
)	
ALAMANCE-BURLINGTON BOARD OF)	
EDUCATION,)	
)	
Defendant.)	

Defendant Alamance-Burlington Board of Education ("the Board"), hereby gives notice that it is removing this action to the United States District Court for the Middle District of North Carolina, and as grounds therefore states as follows:

1. Plaintiff filed this action in Guilford County Superior Court¹ captioned as *Theresa Schmitz v. Alamance-Burlington Board of Education, d/b/a Alamance-Burlington School System*, Case No. 18-CVS-8269, on October 5, 2018 (herein after "Civil Action"). The Complaint and Civil Summons are attached as Exhibit "A" to this Notice.
2. Defendant received the Complaint and Civil Summons on October 1, 2018.
3. This action arises under federal law in that the plaintiff is seeking legal and equitable relief under 42 U.S.C. § 12101 *et seq.* (the Americans with Disabilities Act) and 42 U.S.C. § 12117(a). Accordingly, the federal courts have jurisdiction of the matter pursuant to 28 U.S.C. §§ 1331 and 1343.
4. Defendant is entitled to remove this entire action pursuant to 28 U.S.C. § 1441.

¹ While no longer relevant upon removal of this matter to the United States District Court for the Middle District of North Carolina, the Board notes that Plaintiff's cause of action, if any, against the Alamance-Burlington Board of Education arose in Alamance County. In the event that any of Plaintiff's claims are remanded to the Superior Courts of North Carolina, Alamance County Superior Court, and not Guilford County Superior Court, is the proper venue for this action pursuant to N.C. Gen. Stat. § 1-77(2).

5. The state law claims contained in the Complaint are removed pursuant to the doctrine of supplemental jurisdiction as provided by 28 U.S.C. § 1441(c).

6. The Notice of Removal is timely filed under 28 U.S.C. § 1446(b) in that it is filed within 30 days of defendant's receipt of the initial pleading purporting to set forth the claim for relief on which this action is based.

WHEREFORE, defendant hereby removes the Civil Action from the Superior Court of North Carolina to this Court.

Respectfully submitted, this the 30th day of October 2018.

THARRINGTON SMITH, L.L.P.

/s/ Adam S. Mitchell

Adam S. Mitchell

N.C. State Bar No. 36949

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Attorneys for Defendants

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a copy of the foregoing NOTICE OF REMOVAL was electronically filed with the Clerk of the Court using CM/ECF, and was mailed via U.S. mail, postage prepaid, to the following:

Jonathan Wall
Higgins Benjamin, PLLC
301 N. Elm Street, Suite 800
Greensboro, NC 27401-2260
Attorney for Plaintiff

This the 30th day of October 2018.

THARRINGTON SMITH, L.L.P.

/s/ Adam S. Mitchell
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